IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 29123 of 2007(P)

PETITIONER:

O.P. MURALEEDHARAN NAIR,
S/O. PADMANABHAN NAIR (LATE), AGED 55 YEARS,
JUNIOR CLERK (UNDER SUSPENSION), KERALA STAFF
CO-OPERATIVE BANK LTD.NO.K.141, KOTTAYAM-1,
RESIDING AT KOCHUVEEDU, THIRUVATHUKKAL, KOTTAYAM.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENTS:
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1. **JOINT REGISTRAR (GENERAL) OF**
   CO-OPERATIVE SOCIETIES, KOTTAYAM.

2. **K.S.R.T.C. STAFF CO-OPERATIVE BANK LTD.**
   NO.K.141, ADAM TOWER,STAR JUNCTION,KOTTAYAM-686001
   REPRSENTED BY ITS SECRETARY.

3. **THE PRESIDENT,**
   K.S.R.T.C. STAFF CO-OPERATIVE BANK LTD.NO.K.141,
   ADAM TOWER, STAR JUNCTION, KOTTAYAM-686 001.

BY GOVERNMENT PLEADER SRI. P.K.RAVIKRISHNAN for R1
BY ADV. SRI.T.A.SHAJI, SC for R2 & R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.29123/2007 P

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE SHOW CAUSE NOTICE DTD. 1/03/2006 ISSUED BY THE THIRD RESPONDENT.

EXT.P2: COPY OF THE PETITIONER'S STATEMENT WITH THE QUERIES OF THE THIRD RESPONDENT AND THE ANSWERS GIVEN BY THE PETITIONER DTD. 27/02/2006.

EXT.P3: COPY OF THE REPLY DTD. 11/03/2006 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

EXT.P4: COPY OF THE SUSPENSION ORDER DTD. 19/07/2006 ISSUED BY THE 3RD RESPONDENT.

EXT.P5: COPY OF THE JUDGMENT DTD. 16/03/2007 IN WP(C)NO.4746/07.

EXT.P6: COPY OF THE INTERIM ORDER IN I.A.11637/07 IN WP(C) NO. 4746/07 DTD. 7/09/2007.

EXT.P7: COPY OF THE STATEMENT DTD. 17/06/2006 SUBMITTED BY SRI.V.RAMAN NAIR BEFORE THE 3RD RESPONDENT.

EXT.P8: COPY OF THE ENQUIRY REPORT DTD. 9/07/2007 SUBMITTED BY SRI.K.G.GOPAKUMAR, ADVOCATE.

EXT.P9: COPY OF THE OBJECTION DTD. 26/07/07 SUBMITTED BY THE PETITIONER BEFORE THE DIRECTOR BOARD SUB COMMITTEE OF THE 2ND RESPONDENT BANK.

EXT.P10: COPY OF ORDER (COMMUNICATION) DTD. 16/08/07 OF THE DISCIPLINARY COMMITTEE OF 2ND RESPONDENT BENK.

EXT.P11: COPY OF ORDER DTD. 26/09/07 OF THE ENQUIRY OFFICER SRI. K.G.GOPAKUMAR, ADVOCATE.

EXT.P12: COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE 1ST RESPONDENT DTD. 30/08/07.

EXT.P13: COPY OF THE ORDER CRB NO.6388/07 DTD. 5/09/07 OF THE FIRST RESPONDENT.

EXT.P14: COPY OF THE REPRESENTATION DTD. 7/09/07 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

/TRUE COPY/

P.A.TO JUDGE

KSS

K.M.JOSEPH, J.

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W.P.(c).No.29123 OF 2007

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Dated this the 5th day of November , 2007

JUDGMENT

Petitioner was placed under suspension. He has approached this court seeking to reinstate him as Junior Clerk as he has been under suspension for a continuous period of more than one year without prior permission from the Joint Registrar. He seeks a direction to consider Ext.P13 and also Ext.P10 is sought to be quashed. Learned counsel for the petitioner only presses prayer No.1 namely to reinstate the petitioner as he has been continued under suspension contrary to the mandate of Rule 198(6) of the Co-operative Societies Rules without prior permission of the Joint Registrar.

2. I heard learned counsel for the petitioner-Society and the learned Government Pleader. Counter affidavit is filed by the society. It is not in dispute either by the learned Government Pleader or by the society that prior permission has not been given for continued suspension beyond one year. There is no dispute that one year has run out after he is placed under suspension.

Learned counsel for the society Sri.T.A.Shaji however points out that the allegation against the petitioner is involving huge amount. It is also submitted that the disciplinary proceedings will be concluded in a short time and therefore the petitioner should not be given a helping hand by this court under Article 226.

3. Learned counsel for the petitioner points out the enquiry report to contend that this is not a case where the petitioner should be dis-entitled to the relief on the basis that suspension beyond one year without prior permission of the first respondent is to be vetoed. Learned counsel for the society points out that petitioner is being paid full salary and the first respondent has infact moved the Registrar for prior permission. Learned counsel for the petitioner also relied on the decision of the Division Bench in **Rohini v. Kottan** (1998(2)KLT Case No.43 S.N.).

I would think that the petitioner is entitled to succeed in regard to prayer No.1 as admittedly petitioner has been placed under suspension for more than one year and there is no prior permission within the meaning of Rule 198(6). Writ petition is allowed to the extent of directing the second respondent to reinstate the petitioner within a period of one week from the date

of receipt of a copy of this judgment. I make it clear that I have not pronounced on the merits of the matter. I also make it clear that it will be perfectly open to the respondent to proceed to finalise the disciplinary action against the petitioner in accordance with law.

(K.M.JOSEPH, JUDGE)

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